

April __, 2005

To the Honorable Stephen R. Reed, Mayor:

I am pleased to enclose the Law Bureau's annual report for 2004.

Very truly yours,

Steven R. Dade
City Solicitor

**ANNUAL REPORT
OF THE LAW BUREAU
OF THE CITY OF HARRISBURG
2004**

The City Solicitor and his staff perform a myriad of duties, encompassing all facets of trial practice including courtroom litigation, administrative hearings, grievance hearings, appellate argument, and minor criminal prosecutions. The Law Bureau drafts legislation, contracts and other agreements for the various City departments and reviews those generated by individuals and companies seeking to do business with the City. The Solicitor responds to request for formal opinions from elected officials and department supervisors. The Law Bureau keeps a record of all tort claims filed against the City and litigation and administrative proceedings to which the City is a party. The City Solicitor or a designee attends all Legislative and Non-Legislative meetings of City Council as well as committee meetings upon request.

There were no personnel changes during the year. A chart of the Law Bureau personnel is attached as Exhibit "A" to this report.

The following charts provide a breakdown of monthly activity:

I. LITIGATION

As of December 31, 2004, there were ninety-six (96) open litigation matters, 31% less than the previous year. Of these, thirty-three (33) are the responsibility of outside counsel under the supervision of the Solicitor. Eighty-seven (87) new legal actions were commenced, while one hundred thirty-one (131) were closed. This year, the amount of closed matters exceeds the number of new matters. The number of cases handled by outside counsel in which the plaintiff seeks monetary damages that are covered by insurance decreased by 12% . The number of personnel litigation cases handled by outside counsel has decreased by 33% this year. The Law Bureau noticed a significant decrease in the number of summary prosecution cases, i.e., parking or codes enforcement violations which went to trial, by 72%. Among the more time consuming and/or significant of these cases were the following:

SUMMARY PROSECUTIONS:

Fulmer, Brian K. - 1718 Miller Street. Appeal from summary conviction for failure to make repairs noted on Residential Rental Inspection. On 08/02/04 the City picked up appeal from D.A.'s office. Since repairs were done, the City asked the District Justice for \$100. The District Justice (DJ) assessed a fine of \$500 instead. On 08/19/04 the City advised Fulmer's attorney City willing to settle for \$250. The Court accepted the plea.

HEM Management and Ebbin L. Mallory - 101 South Summit Street. At 04/15/04 hearing DJ gave defendants ninety (90) days to get structural analysis and begin repairs. As of 07/08/04, no permits, no analysis, no nothing, so City filed for Contempt with Motion

for Rule Absolute. No answer was filled, so Court issued Rule Absolute 09/03/04, ordering demolition within 30 days.

Lockhart, Shakir - 331 Emerald Street. Citation issued for accumulation of bulk refuse and construction supplies in back of property. Lockart failed to appear for hearing and DJ assessed \$1,000 fine. Appeal scheduled for 07/08/04. On 07/06/04 Lockart stated he needed a continuance for work-related reasons. City had no objection to a 30-day continuance and sent him to the Clerk of Court to reschedule Appeal. Hearing was rescheduled to 08/05/04. An agreement was reached whereby Lockart pled guilty and City agreed to \$100 fine.

Simpson, Daryl - 1633 Emerald Street. Citation issued for failure to comply with condemnation order. Simpson a no-show at DJ hearing and was fined \$1,000. Appealed to Dauphin County Court. At the 06/10/04 hearing, Simpson had copies of foreclosure action by bank and notice of sheriff's sale scheduled for 01/08/04. The case was continued until 08/05/04 to research the ownership of this property. Sheriff records showed the sale scheduled for 01/08/04 was stayed by the bank indefinitely because they realized the property was not worth anything and are writing the mortgage off as a bad debt. 07/13/04 the City sent a letter to Simpson informing him of such, stating that the City is prepared to prosecute the Citation at the 08/05/04 hearing. Prior to the hearing, the City realized that the appeal was filed almost two (2) months after the DJ decision. The Judge granted City's motion to quash appeal as untimely.

Walters, Dorothy - 239 North 14th Street. Appeal from summary conviction for failure to comply with condemnation order. On 03/16/04 the case was continued for sixty (60) days by the DJ. On 05/17/04 the DJ found Walters guilty in absentia. The case was appealed and the hearing was continued until 10/07/04. 10/07/04 Walters given until the next Miscellaneous Court date to sell or fix the property. 10/28/04 the property was still a mess and the appeal was dismissed as untimely.

Williams, Dean W. - 2447 Reel Street. The 06/17/04 inspection revealed code violations. Housing Code Board of Appeals hearing was scheduled for 08/19/04. City Codes Inspectors and defendant's realtor visited the property on 09/07/04. The place was a mess and the realtor said owner will not pull permits. City informed owner's attorney that City will not agree to continue the case and will aggressively cite owner. On 09/15/04 owner's attorney said they have a buyer and will not fight the condemnation.

LITIGATION:

BANCA v. City of Harrisburg - Land Use Appeal. BANCA appealed decision of the Zoning Hearing Board that its use of the properties known as 2006-2010 North Fourth Street constitutes a Rooming/Boarding House, not a single family rental unit, and as such, is not permitted by the zoning of this neighborhood. 11/17/04 City filed a Petition to Intervene. Hearing on the Intervention Petition scheduled for 12/16/04. 11/29/04 Court issued Order requiring all parties to file briefs in this matter within thirty (30) days and scheduled oral argument for 01/04/05. At the 12/16/04 Intervention Hearing, the parties agreed to stipulate to the City's Intervention and asked the court to push back the briefing

and argument schedule to allow the parties to have settlement discussions. Since no settlement, Argument was eventually held and the Judge issued a Memorandum Opinion upholding BANCA's appeal, reversing the decision of the Zoning Hearing Board. City is proceeding with Petition for Mandatory Injunction.

BSF Properties, et al. - 400 S. Cameron Street. Equity suit to enjoin codes violations. City filed suit to enforce codes compliance. Plaintiff requested a thirty (30) day extension to answer Complaint. On 10/20/04 counsel for BSF informed City they plan to sell property to a local developer for a dollar store. The property was sold to Brittany Capital, LLC, who obtained permits, and work was begun on the property.

3. Coregis v. City of Harrisburg, et al -U.S. Middle District Court of PA - No. 1:CV-03-0920. Outside counsel is William Balaban, Esquire, of Elliott, Reihner, Siedkzokowski, Egan & Balaban. Coregis filed Complaint for Declaratory Judgment in Federal Court. Coregis denied coverage to the City regarding Crawford v. City, et al. (See below) Coregis alleges that under the Harrisburg umbrella policies there is no coverage for damages sought in the Crawford petition for direct liability. City contends it is entitled to a defense for indemnification from the Crawford complaint in one or more of the umbrella policies. Insurance Risk provided Balaban's firm with all policies it could locate from 2003 back to the 1970's. CNA held coverage prior to Alan Hostettler taking it over in 1976. CNA denied coverage because they can find no policies for City. 08/12/03 Balaban will follow City's suggestion and contact Medical Research who assisted City of York in locating past policy information in the Lillie Bell Allen case.

08/14/03 Balaban put St. Paul on notice that at a minimum, it has a duty to defend the City and if it continues to deny its responsibility, the City will consider such refusal bad faith conduct and add a count for such in its current action. City made no payment to Balaban in 2003 due to his firm's failure to provide a summary of projected costs as requested so that City could generate a purchase order. Payment issue resolved March 2004; Balaban reduced his fee by \$11k, payment in full for work to date was \$85k. City believes CNA provided insurance during critical years 1973-1976, when lab notes altered. City research of microfilm records found CNA was City's carrier 1972-1974 and 1974-1975. 12/22/04 City filed Response to CNA's Motion for Summary Judgment, and Counter Statement of Facts, asserting strong arguments that there is coverage under the 1970's "lost policies," and attached the microfilm documents. At the end of 2004, the case was still ongoing.

Crawford, Steven v. City of Harrisburg, et al. - U.S. Middle District Court of PA - No. 1:CV-03-

0920. Outside counsel is Jered Hock of Metzger Wickersham. Crawford alleges several civil rights violations caused by conspiracy among City, County and prosecutors to convict him of murder 28 years ago. Plaintiff alleges Defendants intentionally altered the original lab notes by obliterating the reference of blood on parts of the palm prints and that such was carried out to alter the record and conceal information which would have freed him of the murder. Coverage denied by St. Paul on 04/15/03, by Coregis on 05/14/03 and by CNA on 05/23/03. City's insurance broker, Marsh, USA, Inc., placed all City carriers on notice of claim for any and all policy years, going back to the early 1970's. St. Paul denied coverage. Hock sent notice of litigation to all other carriers.

Fireman's Fund, Coregis and CNA denied coverage. 05/12/03 City filed Motion to Dismiss and Brief in Support of its Rule 12(b)(6) Motion to Dismiss and Rejoinder. More denials of coverage. 07/17/03 Defendant Balshy's Motion to Dismiss and Memo of Law. Hock pointed out to the Judge that Plaintiff appears to have conceded many of the points City raised in its Motion; i.e., he appears to have no conspiracy case against City; acknowledged that punitive damages are not available; and his entire focus relating to state intentional tort claims (false imprisonment, etc.) was on individuals rather than the governmental entities. 09/12/03 Judge Kane granted Commonwealth's, City's and Simpson's Motions to Dismiss in part as follows for all: state law tort claims dismissed due to governmental immunity and claims for punitive damages dismissed. Remainder of Motions to Dismiss denied. Janice Roadcap's and John Balshy's Motions to Dismiss denied. 10/06/03 City's Answer and Additional Defenses of City to Plaintiff's Complaint, changing "sovereign immunity" in the fifth defense to "governmental immunity to protect the City." Also added new defenses raised by the County. 06/29/04 at 10:00 a.m., Chambers Judge Kane, pretrial conference. 07/12/04 at 9:30 a.m. - jury selection. On or after 07/12/04 - trial. 11/20/03 the City's Insurance Risk Office said Coregis is no longer in business; sold its public safety sector to Arguanut. 01/22/04 City's Interrogatories and Request for Production of Documents for answer by Plaintiff. 02/25/04 City's Answers to Interrogatories and Request for Production of Documents served on City Defendants. 02/27/04 Plaintiff's initial responses to City's First Set of Interrogatories and Requests for Production of Documents. 06/02/04 Hock took depositions of Linda Thompson; Crawford deposition continued. 10/18/04 Hock filed summary judgment motions. At the end of 2004, the case was still ongoing.

Ferguson, Michael - U.S. District Court of PA - No. 1:04-CV-2326. Outside counsel is David Karamessinis of William J. Devlin, Jr. & Associates. 11/01/04 City received Complaint. Plaintiff alleges defendants used excessive force by chasing Plaintiff with their automobiles, striking Plaintiff causing him to fall and sustain severe personal injuries. The Dauphin County Drug Task Force was working with City police doing a buy bust operation for crack cocaine. Plaintiff was taken into custody for crack cocaine. During the pursuit, Ferguson ran into the front passenger door of a vehicle that a Dauphin County probation officer was exiting. Case scheduled for trial 12/05/05.

Long, Barbara and George - Dauphin County Court of Common Pleas - No.5557-CV-2002-CV. Outside counsel is Cheryl Kovaly of Lavery, Faherty, Young & Patterson. 09/07/04 City received Complaint. Plaintiff alleges injuries when she tripped over a cut off post in sidewalk at Willow and North Streets on 02/12/00. Since the City is not responsible for the sidewalk, Kovaly filed a Motion 12/27/04 seeking leave of court to join D&P Minerals, Inc. (owner of 239 North Street), as an additional defendant. The Sheriff informed Kovaly that service of the Joinder Complaint could not be made at D&P Minerals at the 236 Liberty Street address. After a proper address was obtained through the City Codes Enforcement office, Kovaly informed the City that she filed a Praecipe to Reinstate Joinder Complaint against Additional Defendant, D& P Minerals, Inc.

Miller, Drew (Riverside Village Park) - 03/15/02 City received a letter from Tom Weber, Esquire, on behalf of Miller requesting compensation. 03/26/02 Mayor's response to Weber was:

No. 07/11/02 City letter to Weber reminding him that Miller's rent for the 2001 season was due on 7/1/02 and provided him until 7/30/02 to pay the rent or a suit will be filed. 07/18/02 Due to vacation schedules, the deadline was extended to 8/15/02. Miller did not pay the rent. City officials met with Weber on 8/12/02 and estimated that Miller owes the City \$15K for both park permit fees and utility bills. Miller was willing to pay \$7,500 in full settlement. 08/19/02 Letter to Weber stating that Miller actually owes \$16,100 and he can either pay the City \$15K or be sued. No payment was made. 09/19/02 City filed Complaint. 10/21/02 Since no answer to Complaint was filed, Miller was mailed the 10 day notice of Default Judgment. 10/29/02 Tom Weber offered \$10,000 in full settlement; told him the City would settle for nothing less than \$15,000. Weber asked for one (1) week continuance to discuss with his client and file Answer. 10/20/02 Continuance Agreement signed. 11/07/02 Weber advised he filed Preliminary Objections (P.O.s) but has authority from client to settle the case for \$13,000, to be paid over five (5) months. 11/08/02 Memo sent to the Mayor conveying the offer. 11/12/02 Mayor rejected the offer; wants \$16,000 in no more than six (6) installments. 11/13/02 Advised Weber. 11/26/02 Letter from Weber offered a lump sum payment of \$13,000. 12/5/02 the Mayor responded that we won't take a penny less than \$15,300. The "counteroffer" was conveyed to Weber. As of 12/23/02 no response from Weber, so City filed a Motion to Dismiss the P.O.s for failure to file a brief, pursuant to local Rules of Civil Procedure. Weber filed Brief twenty-one (21) minutes after the Motion was filed. 01/22/03 City filed Opposition to Defendant's P.O.s. 01/31/03 City received check from Weber for \$10,000 as payment for park permit fees; still contesting water bill and park clean-up fees. 02/03/02 Weber was sent letter acknowledging receipt of check stating that City will

stipulate to such at future hearings. 09/16/03 City filed Praecipe to list P.O.s for argument. Argument scheduled for 11/13/03. Judge Evans rejected the P.O.s regarding naming fictitious name as Defendant and sustained P.O.s regarding attorney fees. 11/20/03 City filed Amended Complaint. 12/31/03 Answer and New Matter filed alleging unclean hands by City. 01/16/04 Reply to New Matter filed. 02/16/04 filed Interrogatories and Requests for Production of Documents. Answers filed 06/24/04. Certificate of Readiness filed 10/28/04. Arbitration hearing scheduled for and held on 12/17/04; Arbitrator's decision was in favor of the City for full amount (\$5,300). Miller did not file an appeal. Miller to make initial payment of \$1,500, then monthly payments of \$750 until the judgment is paid in full.

Morton, Dwayne - U.S. Middle District Court of PA - No. 1:04-CV-0591. Outside counsel is Matt Owens of Marshall, Dennehey, Warner & Goggin. Mr. Morton was arrested for suspected bank robbery on 04/02/02, and alleges after handcuffed he was assaulted by a police officer resulting in a broken jaw, injured back, neck and face. 05/19/04 The Civil Rights complaint was filed Pro Se. Morton is incarcerated at Houtzdale State Correctional Institute. City plans to file a Motion for Summary Judgment based on the theory that there is no genuine issue of material fact with respect to the use of force when taking Mr. Morton into custody.

Norris, Jr., Ronald - 112 Sylvan Terrace. City filed a Complaint in Equity against Ronald Norris, Jr., seeking to compel the demolition. The owner of 114 Sylvan Terrace was prepared to demolish his property but could not find a contractor to do it without simultaneously doing

112 Sylvan Terrace. Norris's attorney informed the City that Norris would be filing bankruptcy and that Norris would not be answering Complaint. City sent letter to attorney asking what Norris planned on doing with the property and received no response. The City drafted a Motion to Lift Automatic Stay to proceed with an equity action. At argument Judge France lifted the stay, but City agreed to hold off on proceeding with this case to see what could be worked out with owner of 114 Sylvan Terrace. The City was informed that owner intends to sell the property. 01/06/04 property not sold and no potential buyers on horizon. City gave Norris two (2) weeks to file Answer to Complaint. 02/10/04 no Answer filed, so City filed Motion for Rule Absolute. 03/05/04 City received Order making Rule Absolute.

Paige, Garry E. - PHRC Docket No. 200402989/EEOC Docket No. 17FA560488. Outside counsel is Frank Lavery of Lavery, Faherty, Young & Patterson. 12/14/04 City received Complaint. Paige alleges he was discharged 07/09/04 for violating the Condition of Employment letter of the Random Drug Test Section of its Commercial Driver License Policy. (He tested positive a second time under the random drug test for Commercial Driver.) He further alleges: the second test was conducted when he was not performing safety sensitive functions, which is a violation of the Federal Commercial Drive License regulations; white employees were tested only when they were performing safety sensitive functions; he was not offered the same opportunity given white employees who received both education and treatment therapy for their first positive test; and discrimination in violation of the Pennsylvania Human Relations Act. Case awaiting probable cause determination.

V.L. Rendina - Contractor requested refund for Business Privilege Tax paid in conjunction with construction of Keystone Office Building. Tax Appeal denied refund and decision upheld by Dauphin County Court of Common Pleas. Commonwealth Court reversed, stating site trailer did not constitute office. Petition for Allowance of Appeal filed with Pennsylvania Supreme Court.

Totton, Sr., Adrian Keith - U.S. Middle District Court of PA - No. 1:04-CV-0730. Outside counsel is David Karamessinis of William J. Devlin, Jr. & Associates. Mr. Totton alleges police brutality and federal rights violations. 06/15/04 City received Complaint. 02/06/03 Plaintiff was arrested for Public Drunkenness. 08/09/04 City filed Answer to the Complaint. 12/09/04 Karamessinis mailed to the Court Defendant City's Answer to Plaintiff's Discovery Motions. 12/15/04 Judge Kane issued an Order denying Plaintiff's Discovery Motions.

Worldwide Street Preachers and James Grove - U.S. Middle District Court of PA - No. 1:CV-04-1127. Outside counsel is Frank Lavery of Lavery, Faherty, Young & Patterson. Among other things, Plaintiffs seek to enjoin City defendants from using the disorderly conduct and defiant trespass statutes to exclude them from nonpermitted and nonrestricted areas around the 07/25/04 PrideFest event in Harrisburg. 05/25/04 City received undocketed Complaint, Motion for Preliminary Injunction & Memorandum in Support for Preliminary Injunction. Hearing on injunction scheduled for 06/16/04 cancelled as parties entered into a Stipulation where Plaintiffs can stand at 2004 PrideFest. At 08/25/04 Case Management

Conference Judge Caldwell strongly recommended settlement to both sides. 12/22/04 Lavery advised the court that the parties have reached an agreement to settle the matter. 12/27/04 Lavery said case settled and City is in the process of working out the details for the consent order on a permanent injunction as to where these people may be in the future to conduct their "preaching" and protesting activities. Lavery advises the tentative settlement has fallen through due to the Plaintiffs' refusal to accept certain language in a permanent injunction with regard to preaching and protest activities at future PrideFest events, which had been previously agreed to in the Preliminary Injunction that covered the 2004 event. The language would have prohibited them from engaging in preaching and protest activity in the public street under the guise of "crossing the street." This was the type of activity that got them arrested in 2003. Judge Caldwell entered an Order reinstating this case and ordering that a revised case management plan be submitted to the Court.

II. BANKRUPTCIES

At the end of 2004, the City had four hundred twelve (412) open bankruptcy cases which is six (6) less than in 2003. Two hundred seventy-eight (278) bankruptcy cases were closed in 2004. There were two hundred seventy-five (275) new bankruptcy cases filed in which the City was a creditor in 2004; this is a decrease of fifty-two (52) from the three hundred twenty-seven (327) new cases filed in 2003. The Law Bureau filed one hundred ninety-four (194) Proofs of Claim on behalf of the City of Harrisburg. The Law Bureau filed twelve (12) objections which is a decrease of thirteen (13) filed in 2003.

Some of the noteworthy cases are as follows:

Clisham, Lisa - Debtor's Chapter 13 Plan did not include City's secured utility and priority tax claims. 06/15/04 a hearing was held on City's Objection to Plan. Debtor's attorney explained that Debtor owned the property jointly with her ex-husband and has virtually no control over or interest in the property. Her attorney stated that she is barely making the plan payments now, and to increase them would basically kill her plan. Judge France told her attorney that because this is a secured and priority claim, she would have no choice but to uphold the City's objection, but asked if the City could "work something out" or whether the City wanted to "torpedo the plan." The matter was continued until 07/20/04 in order to give Debtor time to see about selling the property or deeding it over to the ex-husband. Debtor's attorney failed to appear at the 07/20/04 hearing. 07/21/04 Judge France sustained the City's objection.

Kanoff, Violet - City filed Objection to Debtor's plan asking Debtor to ascertain value of the liquor license or other assets which may have value. Debtor's counsel said City must file a Motion to Lift Stay to obtain the liquor license. Motion to Lift Stay was filed and granted. The court ordered that the automatic stay of collection proceedings be lifted for purpose of transferring liquor license # R00223 to the City in satisfaction of its claim. Mayor said that upon receipt the liquor license is to be ascribed to the National Sports Hall of Fame. 08/27/04 the Liquor Control Board sent application to the City for transfer of the license. City awaiting hearing by the Board on transfer of the license.

3. Messner, Rodney & Tammy - Debtors' attorney attempted to get several properties transferred to creditors, per creditors' request to lift stay to take properties. Debtors also requested that the City stay the issuance of further citations. Creditors took title through bankruptcy but never filed deeds. City agreed to stop prosecutions. All properties but two (2) have been transferred to creditors. The remaining properties were auctioned for \$9,400. 12/06/04 City received a check from Debtors' attorney for disbursement of sale proceeds, representing payment of both pre and post petition debts for the auctioned properties.

Peffley, Paul D. III & Michelle - Submitted Chapter 11 Plan and Disclosure Statement to Bankruptcy Court. Debtors claim financial reverses but admit they have a coin operated laundry and car wash in Palmyra, a 40% ownership interest in Lizpaul, Inc., 2 trailers taken to events to sell french fries and funnel cakes. City filed Objection to Plan claiming they offer nothing new to pay the post-petition utility debt due on their 10 City rental properties. Case converted to Chapter 13. 10/21/04 Debtors offered the City \$.55 per dollar on utility claim. City countered with \$.89 on the dollar or \$64,281.65, which includes penalties and interest. 12/02/04 Debtors made another offer of \$60,781.00. City accepted this final offer. Debtors made a payment of \$22,916.25, leaving a balance of \$37,864.75. At year's end, City was awaiting final payment.

The chart on the next page documents activity for each month:

III. MAJOR PROJECTS

The Law Bureau played a significant role in several major projects, which were either undertaken or continued in 2004:

African American Museum - E-mail from Louis Colon regarding need to set up 501(c)(3). No Articles of Incorporation or Bylaws. Both were drafted for review. A private citizen wants to donate his African-American collection of books, coins, etc. On 01/21/04 Louis Colon met with citizen (Mr. McIntosh) to view the collection. Once corp is set up, transfer documents will be drafted. Patriot News article reported that the Museum site has moved from 6th and Boas to 3rd and Verbeke Streets.

Labor Relations Task Force - BACG meets twice a month with task force to deal with labor and miscellaneous City employment issues. Numerous Labor Relation Task Force meetings were held throughout the months of July and August 2004 to discuss and render guidance on issues from light-duty to lay-off process.

National Civil War Museum - The Law Bureau worked with MOSP regarding Bohrer-Regan Co.'s substandard work on the museum's HVAC system. The dispute went to mandatory mediation which only polarized both sides' positions. At the 23rd hour a compromise was reached lowering Bohrer-Regan's outstanding invoices while at the same time extending the City's warranties on the HVAC system and its components. Law Bureau also drafted short term funding Agreement between City and Museum.

Police Pension Board - 01/15/04 legislation was drafted removing the 90-day requirement for military buy-back. Board members reviewed the legislation on 01/20/04. 03/04/04 FOP noticed conflict within the Ordinance. FOP attorney said mistake in draft. A remedial Ordinance was drafted and approved by the Board. Remedial Ordinance was passed. Board was advised to change certain money managers due to poor performance. Board also needs to determine if pension comes under new IRS regulations requiring separate IRA for those who do not decide to rollover or get cash out.

Sports Hall of Fame - 03/31/04 permit was amended to allow for a bar and restaurant at Sports Hall of Fame. Mayor also wants "National Sports Hall of Fame" trademarked. 07/06/04 City filed for trademark. The trademark office sent a preliminary denial, but the City had six (6) months to respond before final determination. Mayor is seeking the liquor license of the bankrupt Kanoff establishment. The Bankruptcy Court ordered that the automatic stay of collection proceedings be lifted for purpose of transferring liquor license #R00223 to the City in satisfaction of City's claims. Mayor said that upon receipt the liquor license is to be ascribed to the National Sports Hall of Fame. 08/27/04 the Liquor Control Board sent an application to the City for the transfer of the license. City is awaiting a hearing by the Board on the transfer of the license.

UGI/PUC Matters - City not party but has integral role via witnesses (Konkle & Emerick) and legal representation due to interest in outcome. UGI discontinued gas services and switched to propane service without PUC permission for residents of the 600 block of Dauphin Street. Office of Consumer Advocate filed against UGI and joined with

Attorney Hicks for various citizens of Dauphin Street. 01/09/04 Hearing on emergency relief. Judge ordered emergency relief to customers. Next step: Commission confirmation of emergency order and then hearing on the merits of the case. Commission confirmed order; hearing later in March/April; final decision in summer. City has attended all hearings before the PUC as well as meeting with PUC, UGI and residents' attorney.

IV. LEGISLATION

In the year 2004, there were forty-six (46) Ordinances and one hundred fifty-two (152) Resolutions passed by City Council. Of the Ordinances passed in 2004, thirteen (13) Ordinances authorized changes to the Traffic Control Map.

Among significant ordinances passed by Council:

An Ordinance determining to assist a project of the Redevelopment Authority authorizing and directing the incurrence of lease rental debt in a maximum aggregate principal amount not to exceed two million one hundred fifteen thousand dollars.

An Ordinance of the City of Harrisburg creating and organizing a Harrisburg Environmental Advisory Council for the purpose of overseeing, discussing and disseminating information on environmental issues in the City and, in part, such issues related to the Harrisburg Materials Energy, Recycling and Resource Facility, Transfer Station, Recycling Facilities and Landfills.

An Ordinance amending Title 2 of the Codified Ordinances, known as the Police Retirement System, adding a provision to allow the Pension Fund to directly pay for its administrative expenses.

An Ordinance prohibiting certain forms of panhandling and solicitation in designated areas within the City of Harrisburg.

An Ordinance amending Chapter 2-707.23 by eliminating the 90 day requirement to purchase intervening and non-intervening military credit for employees of the Bureau of Police of the City of Harrisburg.

An Ordinance amending Ordinance 14 of 2001 by deleting Sections 10-301.23 and 10.301.29(a)(2) of the Codified Ordinances of the City of Harrisburg. The U.S. District Court of the Middle District of Pennsylvania determined that these sections violated the First Amendment of the U.S. Constitution.

An Ordinance amending the Official Map of the City of Harrisburg to change the name of Camp Curtin Drive to National Civil War Museum Drive.

An Ordinance for the purposes of establishing, within the City of Harrisburg, an area designated as a Neighborhood Improvement District, designating a non-profit corporation to administer the same, accepting a business plan for the district and meeting all other

requirements for a Neighborhood Improvement District Act, and repealing all inconsistent ordinances or parts of ordinances.

An Ordinance authorizing and approving a project Commerce Bank Park (the Stadium Project) Lease Rental Debt in a maximum principal amount not to exceed Eighteen Million Dollars.

An Ordinance amending Title 3-500, entitled “Animal Control and Responsibility” in order to allow for greater enforcement against dangerous dogs within the City of Harrisburg.

An Ordinance amending Section 3-135.7 of the Codified Ordinances of the City of Harrisburg approving an increase in the Towing and Storage Charges levied by salvors performing services for the City of Harrisburg.

An Ordinance authorizing and approving a project Commerce Bank Park (the Stadium Project) Lease Rental Debt in a maximum principal amount not to exceed Eighteen Million Dollars.

An Ordinance amending Chapter 2-707.19 by clarifying when a member is entitled to certain Police Retirement Benefits.

An Ordinance amending Section 3-131.8 of the Codified Ordinances of the City of Harrisburg to expand the prohibition against the parking of tractor-trailer trucks, motor homes, utility trailers, travel trailers, boat trailers and truck trailers on City streets..

An Ordinance amending Chapter 5-705 of the Codified Ordinances of the City of Harrisburg by establishing an Emergency and Municipal Services and eliminating/striking the City of Harrisburg's Occupational Privilege Tax.

An Ordinance amending Chapter 3-141 of the Codified Ordinances of the City of Harrisburg regarding Disable Parking in Residential Neighborhood.

An Ordinance providing for an increase in fees charged for services provided by the Harrisburg Authority.

An Ordinance appropriating sixty million, two hundred twenty-eight thousand, seven hundred and sixty-nine dollars for the General Fund - Proposed 2005 Budget.

An Ordinance establishing a holding account in the Office of the City Treasurer for the purpose of creating an Emergency Reserve Fund, setting dates on which deposits be made into the account and requiring Council, in its annual budget, to provide a line item for the account providing for revenue and appropriations.

V. DOCUMENT DRAFTING AND REVIEW

The Law Bureau drafted or reviewed fifty-two (52) Agreements/Contracts for form and legality. Among the more significant were the following:

AGREEMENTS:

Collection Agent Agreement between the City of Harrisburg and the Harrisburg School District for collection of real estate taxes (City's Proof of Claim for person or business in bankruptcy).

Unemployment Compensation Consulting Agreement between City of Harrisburg and Heiss, Gibbons and Company, Inc.

Municipal Services Agreement between City of Harrisburg, County of Dauphin, Harrisburg School District and Dauphin County General Authority.

License Agreement between City of Harrisburg and Computer Associates DataBase Programs.

Memorandum of Agreement - Harrisburg Broadcasting Network Channel 20, between the City of Harrisburg, Mayor Reed and Harrisburg City Council, Richard House - Joint Advisory Committee for HBN TV Station 20.

Sponsorship Agreement between Harrisburg Parks & Recreation & WPMT FOX 43 -
Advertisements promoting the American Musicfest Festival.

Consulting Agreement between City of Harrisburg, The Harrisburg Authority and Daniel
Lispi (DRL Consulting and Development, LLC).

Sponsorship Agreement between Harrisburg Parks & Recreation and WHTM ABC 27 -
promoting advertisements for Kipona.

Volunteer Agreement between the City of Harrisburg - Parks & Recreation and Big
Brothers/Big sisters Festival Volunteers for Soda Sales (during various festivals).

Memorandum of Agreement (City Archives) between the City of Harrisburg & Penn State
University (Middletown) to help set-up City Archives to protect and preserve the
historical documents and artifacts.

Consulting Services Agreement between the City of Harrisburg - Data Processing and
Denvor Solutions, INC. (DSG).

Cooperation Agreement between the City of Harrisburg, the Harrisburg University of
Science and Technology and The Harrisburg Authority for a grant of 12 million
dollars.

Service Agreement between the City of Harrisburg & Verizon for Wireless Modems.

Professional Services Agreement between the City of Harrisburg, Department of Building
& Housing Development and the Harrisburg Parking Authority.

Police in School/Resource Police Officers Agreement (Federal Grant) between the City of
Harrisburg, Police Bureau and the Harrisburg School District.

Reimbursement Agreement between the Mayor's Commission on Literacy and City of
Harrisburg.

Cooperation Agreement (Greenbelt) between City of Harrisburg, Susquehanna Township
& Pennsylvania Department of Transportation (HATS).

Professional Services Agreement between Bureau of Police and Community Action
Commission (CAC) DBHD Weed and Seed Grant Funds.

Consulting Agreement between City of Harrisburg and George Smith (City Website).

Consulting Agreement between City of Harrisburg and Tim Stone (City Website).

Agreement for Payment in Lieu of Taxes between Uptown Partners, County of Dauphin, Harrisburg School District, City of Harrisburg and the Harrisburg Redevelopment Authority.

Service Agreement between the City of Harrisburg and Greenlee Partners, LLC, providing government and public relations professional services.

Verizon Agreement between the City of Harrisburg and Department of Parks & Recreation for Verizon of Pennsylvania to construct and maintain telecommunications cable in Reservoir Park.

CONTRACTS:

New Communities Program Contract between the City of Harrisburg, MOED and Commonwealth of Pennsylvania Department of Community and Economic Development.

Contract for Services between the City of Harrisburg and RSR Appraisers and Analysis - Appraisal Report for City of Harrisburg and Dauphin County Board of Assessment Appeals.

VI. ONGOING ACTIVITIES

The following day-to-day tasks consumed a great deal of Law Bureau staff time:

Preparation and filing of thirty-three (33) mortgages and twenty-six (26) mortgage satisfaction for the Department of Building and Housing (DBHD) and Harrisburg Redevelopment Authority (HRA).

Preparation, filing and researching of fifty-three (53) deeds for DBHD and HRA.

Preparation of monthly, semi annual and annual litigation status reports for risk management, insurance, police accreditation and auditing purposes. This includes all claims filed with the Pennsylvania Human Relations Commission, the Harrisburg Human Relations Commission and the Equal Employment Opportunity Commission.

Preparation and notification to City departments of HRA pro tanto settlements, mortgage foreclosures and sheriff sales.

Preparation of weekly new bankruptcy case filing, dismissed bankruptcy cases and discharged cases.

Notification to appropriate insurance carriers of six (6) 6-months notices of claim and twelve (12) new lawsuits filed against the City and maintenance of records of all matters pertaining thereto, including all cases assigned to outside counsel by the City's insurer.

In-house staff researched and drafted twenty-seven (27) new opinions and drafted and/or reviewed fifty-two (52) agreements/contracts at the request of the Mayor, City departments and City Council.

VII. TECHNOLOGICAL ADVANCES

The Law Bureau has utilized several internet based programs to assist in the retrieval of research materials, information and data without leaving the office. Some of these are as follows:

1. Public Access to Court Electronic Records (PACER) which is utilized to research bankruptcy information such as performing a report of new bankruptcy cases filed, dismissed cases and discharged cases. The ability to access this information allows the City to identify debtors who owe the City money and neglected to include the City as a creditor and thereby not receiving monies that would be due. Also, this allows us to continue collection procedures more expeditiously upon dismissal of a bankruptcy case.
2. Electronic Case Filing (ECF) for the Middle District Court of Pennsylvania allows the City to file documents electronically and check the docket report for cases.
3. Dauphin County's property information is available online to verify the ownership of property which is more up to date than the City's information system. Also, if the information in the City's computer system is the same as that of the County's,

then it is not necessary for Law Bureau staff to make unnecessary trips to the Dauphin County Courthouse to collect information that is duplicate of information already in our possession. Thereby increasing productivity and allowing time to be better utilized. This system also has tax maps, sales history, neighborhood sales information and images.

4. RAMAPO is the Chapter 13 Trustee's information system. The information that can be ascertained from this program is the debtor's payment history, monies disbursed to creditors, the amount to be paid to creditor's and the status of the bankruptcy case.

VIII. BUDGET

All of the above was accomplished at a cost of \$527,711.35 to the General Fund, \$162,022.35 more than that appropriated to the office, broken down as follows:

<u>Budget Category</u>		<u>Total</u>
Personnel		\$367,985.25
Salaries -	\$297,214.34	
Fringe Benefits -	\$ 70,770.91	
Operating Expenses		\$259,726.10
Communications -	\$ 4,937.22	
Professional Fees -	\$237,565.94	
Maintenance Contracts -	\$ 125.00	
Contracted Services -	\$ 2,575.00	
(Includes tuition for CLE)		
Supplies and expenses -	\$ 14,522.94	
(Includes treatise updates and WestLaw)		
Capital Outlay		
		\$ - 0 -
		\$527,711.35

The hourly cost for four (4) attorneys is \$63.43 when all expenditures are attributed to the Law Bureau. However, if the amount paid to outside counsel and to appraisers in tax appeal hearings conducted by the County are removed from the total, the hourly cost per attorney is \$34.87. Even the higher figure is less than half the amount charged by attorneys in private practice.

IX. CONCLUSION

The Law Bureau has continued to improve its relationship with other departments within the City Government, thereby making them more comfortable and willing to request assistance from the City Solicitor and his staff. This continuing endeavor appears to have obtained the desired effect, within the past year the Law Bureau has noticed steadily increased requests for information and assistance from departments, as well as people and businesses from outside the City Government with whom the City deals.

The intent of the City Solicitor is to have more responsibilities handled by his staff which were formerly handled by outside counsel. The exclusion of which would be Bond issues and the like for which in-house counsel do not have the prerequisites to perform. An example of this expanded responsibility is that Deputy City Solicitor, Beth Ann C. Gabler, has been approved by the City's insurance company to handle PHRC cases. Ms. Gabler will also be handling the City's unemployment compensation cases.

Respectfully submitted,

Steven R. Dade
City Solicitor